

PART IV – REPRESENTATIONS AND INSTRUCTIONS
SECTION K
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS OR RESPONDENTS

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**SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER
STATEMENTS OF OFFERORS OR QUOTES**

K.1 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

- (a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **518210**.
- (2) The small business size standard is **\$32.5M**.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)(1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.
- (2) If the provision at 52.204-7 is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:
 - ☐ (i) Paragraph (d) applies.
 - ☒ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.
- (c)(1) The following representations or certifications in SAM are applicable to this solicitation as indicated:
 - (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
 - (A) The acquisition is to be made under the simplified acquisition procedures in Part 13;
 - (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
 - (C) The solicitation is for utility services for which rates are set by law or regulation.
 - (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
 - (iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.
 - (iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
 - (A) Are not set aside for small business concerns;

- (B) Exceed the simplified acquisition threshold; and
- (C) Are for contracts that will be performed in the United States or its outlying areas.
- (v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.
- (vi) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (vii) 52.214-14, Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
 - (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
 - (B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
- (x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
- (xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.
- (xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA–designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
- (xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.
- (xvi) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225-1.
- (xvii) 52.225-4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.
 - (A) If the acquisition value is less than \$25,000, the basic provision applies.

- (B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.
- (C) If the acquisition value is \$50,000 or more but is less than \$79,507, the provision with its Alternate II applies.
- (D) If the acquisition value is \$79,507 or more but is less than \$100,000, the provision with its Alternate III applies.
- (xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
- (xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.
- (xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certification. This provision applies to all solicitations.
- (xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following certifications are applicable as indicated by the Contracting Officer:

[*Contracting Officer check as appropriate.*]

- ☒ (i) 52.204-17, Ownership or Control of Offeror.
- ☐ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.
- ☐ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.
- ☐ (iv) 52.222-52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.
- ☐ (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA–Designated Products (Alternate I only).
- ☐ (vi) 52.227-6, Royalty Information.
 - ☐ (A) Basic.
 - ☐ (B) Alternate I.
- ☒ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

- (d) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this

offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

K.2 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)

(a) *Definitions.* As used in this provision—

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

- (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a

Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

- (i) In a criminal proceeding, a conviction.
 - (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
 - (iii) In an administrative proceeding, a finding of fault and liability that results in—
 - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
 - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
 - (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
- (2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.
- (d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

K.3 ORGANIZATIONAL CONFLICTS OF INTEREST

- (a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- (b) Each Offeror is to check the appropriate block for each of the questions below. The questions apply equally to (1) the Offeror, (2) intended subcontractors at any tier, (3) consultants, (4) affiliates of the foregoing, and (5) chief executives and directors of any of the foregoing who will be involved in performing the contract, and, accordingly, that the term "Offeror" is defined to include all five types of considerations. The questions shall be completed by each Offeror or person identified.
- (1) Does the Offeror depend upon industries or firms which could be affected by DOE actions related to the contract for a significant portion of its business, or have a relationship (financial, organizational, contractual or

otherwise) with such industries or firms which could impair its objectivity or independence? Yes ☐ No ☐

(2) Would any unfair competitive advantage accrue to the Offeror in either its private or government business pursuits from access to:

(i) data generated under the contract? Yes ☐ No ☐

(ii) information concerning DOE plans and programs? Yes ☐ No ☐

(iii) confidential and proprietary data of others? Yes ☐ No ☐

(3) Will any proposed subcontractor perform any self-evaluation or inspection of a service or product, or evaluation or inspection of another with whom a relationship exists which could impair objectivity, including evaluation or inspection of goods or services which compete commercially with the performer's goods or services? Yes ☐ No ☐

(4) Will any of the Offeror's chief executives, directors, or entities which they own or represent, or any of the Offeror's affiliates be involved in the performance of the contract? Yes ☐ No ☐

(5) Do you have any current business arrangements which may conflict with your role as Offeror or subcontractor under this contract? Yes ☐ No ☐

(c) If the Offeror checked "yes" to any of the above in paragraph (b), the Offeror shall provide the statement described in paragraph (d) from each entity or person affirmatively responding.

(d) The statement must contain the following:

(1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the Offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of

the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

- (2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the services required by the Performance Work Statement to be provided in connection with the instant contract.
- (e) Failure of the Offeror to provide the required statement may result in the Offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

K.4 INSTRUCTIONS FOR SUBMITTING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE INFORMATION (FOCI)

The Offeror shall submit FOCI information in accordance with the Section K Provision entitled, DEAR 952.204-73, Facility Clearance, using the DOE FOCI Electronic Submission System (ESS) located at <https://foci.anl.gov>. Under the DOE FOCI ESS electronic signatures cannot be accepted; thus, a signed SF-328 original, executed in accordance with the form's instructions, shall be submitted with the Offeror's offer/proposal to DOE.

Offerors are encouraged to transmit FOCI information well before the deadline for proposal submission set forth in Block 9 of the SF33, in accordance with Section L Provision entitled, FAR 52.215-1, Instructions to Offerors – Competitive Acquisition.

If the Offeror has an approved facility clearance, the Offeror shall identify (1) its DOE Facility Code (or DOD CAGE Code, if applicable), (2) the date the Offeror's completed Standard Form 328 was submitted, and (3) the date of the Cognizant Security Officer (CSO) affirmative FOCI determination. A copy of the affirmative FOCI determination shall also be provided.

K.5 E-FOCI ELECTRONIC PROCESSING

In furtherance of DEAR 952.204-73, Facility Clearance, Offerors/subcontractors and/or joint ventures that do not possess a Department of Defense (DOD) or a Department of Energy (DOE) Facility Clearance shall submit the information requested via <https://foci.anl.gov> website. Offerors/Teaming Partners/Subcontractors and/or Joint Ventures who possess a DOD or DOE Facility Clearance shall submit agency documentation that grants the facility clearance, including their company's assigned DOD commercial and government entity (CAGE) code or DOE facility code.

Please check, as appropriate:

- ☐ Facility Clearance documentation has been submitted via <https://foci.anl.gov>
☐ Documentation granting offeror's/teaming partners/subcontractor(s) and/or joint venture facility clearance is attached

Company Name and Address:

In relation to this solicitation, my company is responding as (please check, as appropriate):

- ☐ Offeror
☐ Teaming Partner
☐ Subcontractor
☐ Joint Venture
☐ Other (please specify):

When filling out the eFOCI Registration form please include the following information:

- The FOCI Office that will review your FOCI submission when it is completed – Environmental Management Consolidated Business Center.
- Reason for Request – Environmental Management Headquarters Information Technology Solicitation No. DE-SOL-0007872.

K.6 SOLICITATION CERTIFICATION

By submitting its signed offer, the Offeror represents its understanding that Solicitation number DE-SOL-0007872 represents the current and complete contracting requirements of the Government for the Environmental Management Headquarters Information Technology Services procurement. This Solicitation supersedes in its entirety any prior representations from the Government or attributed to the Government, including, but not necessarily limited to; any information formally provided by the Government prior to release of this Solicitation; remarks made by the Government during, or reported as a result of, industry one-on-one meetings; and any information or conjecture presented by the media, or any other source, on the Governments requirements for this Solicitation.

K.7 SIGNATURE/CERTIFICATION

By signing below, the Contractor certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The Contractor further certifies that it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certification made by the Offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Signature of the Officer or Employee
Responsible for the Offer

Date of Execution

Typed Name and Title of the Officer or Employee
Responsible for the Offer

Name of Organization

Address City, State, ZIP